

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO. 17614 OF 1998**

Date: 08.08.2007

Between:

The Depot Manager, APSRTC, Jeedimetla Depot, RR District.

... Petitioner.

And

The Labour Court-III, Hyderabad rep., by its Presiding Officer and another.

... Respondents.

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**WRIT PETITION NO. 17614 OF 1998**

**ORDER:**

Aggrieved by the award of the Labour Court III, Hyderabad, in I.D. No. 231 of 1994 dated 01.07.1997, the present writ petition is filed.

The second respondent was issued a charge sheet for unauthorized absence for a period of 11 days from 31.05.1992 to 11.06.1992. An enquiry was held and he was removed from service on 04.02.1993. Aggrieved thereby the second respondent invoked the jurisdiction of the Labour Court. He contended before the Labour Court that he had fallen sick, that he underwent treatment and that he had produced a private medical certificate as proof of his illness. He also stated that there was no male person available in his in-laws house and as such he could not inform the authorities prior to his absence. Exs. M-1 to M-19 were marked by consent before the Labour Court.

The Labour Court held that there was justifiable cause for the petitioner to have abstained from duty as he had undergone treatment by a private doctor for back pain and that his inability to inform the

authorities was because no other male member was available in his in-laws house at the relevant time. The Labour Court was of the view that the punishment of removal was grossly disproportionate and that instead the petitioner should be reinstated into service with continuity of service and all other benefits but without back wages. The second respondent has been denied back wages for a period of more than four years from 04.02.1992 to 01.07.1997.

The Labour Court, in exercise of its jurisdiction under Section 11-A of the Industrial Disputes Act, has re-appreciated the evidence on record to come to the conclusion that the petitioner had indeed undergone treatment for back pain by a private medical practitioner and that his inability to inform the authorities was on account of their being no male member in his in-laws house at the relevant time. The petitioners abstained from duty for a period of 11 days. The Labour Court has, as a measure of punishment, denied him back wages for a period of four years.

It is well settled that, while exercising certiorari jurisdiction under Article 226 of the Constitution of India, this Court would not sit in appeal over findings of fact recorded by the Labour Court nor would it interfere with the punishment as substituted by the Labour Court unless the punishment is such as to shock its conscience or is one which could not have been imposed at all. In the present case the second respondent has been denied back wages for a period in excess of four years for his unauthorized absence from duty of 11 days. It cannot be said that the

punishment imposed by the Labour Court, in substitution of the order of removal passed by the petitioner herein, is such as to necessitate interference under Article 226 of the Constitution of India. The writ petition fails and is accordingly dismissed.

Date: 08.08.2007

RAMESH RANGANATHAN, J

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